INCOME TAX ASSESSMENT AMENDMENT BILL (NO. 2) 1979

Date Introduced: 3 May 1979
House: House of Representatives

Short Digest of Bill

Purpose

To introduce a system of withholding tax on mining payments made to Aboriginal groups.

Background:

Royalties and other monies are to be paid to Aboriginals and Aboriginal groups and bodies in respect of Aboriginal land used for purposes associated with mining activities.

Although this Bill is to apply Australia-wide it is only in the Northern Territory that agreements on payments to Aboriginals have been made. The Aboriginal Land Rights (Northern Territory) Act 1976 determines where the monies that are to be paid into the Aboriginals Benefit Trust Account will go. Although some of the monies will be paid directly to individuals, the Land Rights legislation has shown preference for royalties and other monies to be paid to organisations representing Aboriginals.

Problems of administration and collection would be likely to arise if Aboriginals or Aboriginal groups through which a proportion of the monies will be channelled were responsible for the payment of income tax on these monies. By introducing a withholding tax the mining company, Government or other person who makes a mining payment will have a responsibility to deduct from the payment the amount of tax payable and forward this to the Commissioner of Taxation in settlement of the tax.

Although there is no directly comparable system applying to other groups in Australia, the tax instalment deduction system that applies to most wage and salary earners is similar.

Main Provisions

Clause 4 will introduce new section 23AE into the Income Tax Assessment Act 1936 to ensure that the assessable
income of Aboriginals and distributing bodies is not to include amounts received as mining payments on which mining withholding tax has already been paid.

Clauses 7 and 8 introduce a comprehensive withholding tax system for the imposition and collection of income tax on certain kinds of payments that are received by Aboriginal communities in respect of the use of Aboriginal land for purposes associated with mining activities. Division 11C is to be introduced into Part III of the Principal Act and will set out the basis on which these payments are to be subject to income tax. The income tax rate of 6.4% is proposed by the Income Tax (Mining Withholding Tax) Bill 1979. (See Digest)

The new provisions are to apply in respect of mining payments made on or after 1 July 1979. (new s.128U)

Clause 8 inserts another Division in Part VI of the Principal Act - Division 5, to facilitate the collection of mining withholding tax. Persons making a mining payment must first make a deduction for mining withholding tax. This is to be forwarded to the Commissioner of Taxation (S221ZC).

For further detail see the Explanatory Memorandum circulated by the Treasurer.

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LEGISLATIVE RESEARCH SERVICE

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